



WILLS

(A.R.S. §§ 14-2501-2907)

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WHAT IS A WILL?

A will is a legal document by which you specify the distribution of your assets upon your death. It applies to both real property (your home or land) and personal property (automobiles, jewelry, furnishings, etc.). A will may also designate a personal representative or executor to administer your estate and/or a guardian for any minor children.

WHO NEEDS A WILL?

There is no requirement to have a will. A person who is eighteen years of age or older and who is of sound mind may make a will. If you own property of any value, you should consider executing a will.

If you die without a will your estate will be distributed according to what are known as the laws of intestate succession. Each state has a different intestacy scheme; usually (including in Arizona) assets are first distributed to the spouse, then to children in equal shares, then to parents in equal shares, then to siblings (including half-siblings) of the decedent in equal shares. Dying intestate (without a will) subjects you to the laws of intestate succession and the person(s) who receive your estate may not be the persons you desire to receive the property. In fact, if no living relatives exist, the State may claim your property. A.R.S. §§ 14-2101–2105.

CAN I NAME A GUARDIAN FOR MY CHILDREN IN MY WILL?

Yes. A guardian is legally authorized by your will to care and act as a parent for your minor children. Additionally, some states require you to appoint an individual to take care of a minor child's financial well-being because the latter cannot inherit your estate outright, until the age of eighteen. This person is known as a conservator. The conservator may be and oftentimes is the same person as the guardian. If you die intestate or without appointing a guardian or conservator in your will, the State will appoint a guardian for the child. The person appointed by the court may not be the person you would choose to raise your children.

While the surviving natural parent of the child automatically becomes the child's guardian upon your death, it is advisable to name alternates for both guardian and conservator.

DOES A WILL TRANSFER ALL PROPERTY?

No. Some property will not necessarily pass to beneficiaries named in the will, but rather will go to persons designated by other provisions of law. For example, military death benefits and

military pay and allowances owed to you, but unpaid before your death, will be conveyed to the next of kin named on your DD Form 93, Record of Emergency Data. This form is kept in your personnel records at customer service.

Life insurance proceeds, such as Servicemembers' Group Life Insurance, will be paid to the beneficiaries named in the policy. If you are unaware of whom you have listed as beneficiaries or desire to change current named beneficiaries, contact the company that holds the policy.

Any property owned in joint tenancy with the right of survivorship will pass automatically to the survivor at the time of your death. This property will not pass under the terms of your will. Real estate, Individual Retirement Accounts, bank accounts, stock certificates, bonds and mutual funds are examples of property that may be owned jointly or have a designated beneficiary, as with life insurance.

WHAT EFFECT DOES DIVORCE HAVE ON MY WILL?

Once a Decree of Dissolution of Marriage has been issued by a judge, all provisions of your will relating to your former spouse will be revoked. This means even if you do not update your will, your ex-spouse will be treated as if he or she is not listed in your will. A.R.S. § 14-2804.

HOW DO I GET MY WILL PREPARED?

First, determine what property you own, where it is currently located, and to whom you want to give it when you die. Choose someone to act as your personal representative or executor of your estate and make sure that they are willing to do the job. If you have minor children, choose a guardian and make sure the person you choose is willing to care for your children.

Finally, make a same day appointment with the legal office by calling (623) 856-6901 only on Tuesday or Thursday between 0730 - 0815. Before making an appointment, visit our website at <https://aflegalassistance.law.af.mil> to complete a will worksheet or if you are not able to access the internet you may pick up a will worksheet at any time during our office hours. The answers you provide in the worksheet will provide the attorney the information needed to draft your will.

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